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5 UNITED STATES DISTRICT COURT
6 NORTHERN DISTRICT OF CALIFORNIA
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8 QUINN MALCOLM WILRIDGE,

No. C 09-2236 SI

9 Petitioner,

**ORDER RE: RESPONDENT'S MOTION
FOR RECONSIDERATION**

10 v.

11 JOHN MARSHALL, warden,

12 Respondent.
13 _____/

14 This case is before the Court pursuant to a limited remand from the U.S. Court of Appeals for
15 the Ninth Circuit to consider petitioner's motion under Fed. R. Civ. P. 60(b) for relief from this Court's
16 October 5, 2009, dismissal of his habeas petition as time-barred. On January 23, 2013, the Court issued
17 an order granting an evidentiary hearing on petitioner's 60(b) motion. Respondent has filed a motion
18 for reconsideration of the January 23, 2013 order. Having reviewed that motion, the Court DIRECTS
19 petitioner to file a response, as detailed below.

20 In the January 23, 2013 order, the Court granted an evidentiary hearing "[b]ecause the record
21 was not amply developed, [so] petitioner is entitled to an evidentiary hearing for the limited purpose of
22 reviewing newly available medical and prison records in order to determine whether petitioner is
23 entitled to equitable tolling based on a mental illness, and therefore to 60(b)(6) relief." Respondent's
24 motion for reconsideration raises no new legal issues or arguments. Instead, respondent argues that an
25 evidentiary hearing may not be necessary because the parties may be able to review the relevant medical
26 records themselves and submit additional briefing that would enable the Court to resolve the underlying
27 tolling issue. Given the time and expense an evidentiary hearing entails, respondent contends that it
28 would be more prudent to require petitioner to present the entire set of records in his possession so that

